

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:06cv205**

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|--|---|--|
| <b>THOMAS J. McMANUS,</b>                              | ) |  |
|  | ) |  |
| <b>Plaintiff,</b>                                      | ) |  |
|  | ) |  |
| <b>Vs.</b>   | ) |  |
|  | ) |  |
| <b>PROGRESSIVE SOUTHEASTERN<br/>INSURANCE COMPANY,</b> | ) |  |
|  | ) |  |
| <b>Defendant.</b>                                      | ) |  |
|  | ) |  |

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**ORDER  
OF REMAND**

**THIS MATTER** is before the court on the joint Motion to Remand this matter to the North Carolina General Court of Justice, District Court Division, Burke County. For cause, the parties have shown that the actual amount in controversy does not exceed \$75,000.00 and have entered into a contractually binding stipulation that would be enforceable even if this matter remained in this court. While this court hesitates to allow remand where a plaintiff unilaterally states that the amount in controversy does not meet the jurisdictional minimum, it appears here that the parties have jointly so stipulated. In such circumstances, it appears that the stipulation complies with the decision of the Court of Appeals for the Fourth Circuit in Aikens v. Microsoft Corp., 159 Fed.Appx. 471 (4<sup>th</sup> Cir 1995) (unpublished), and will be summarily allowed. Further, the pleadings indicate that the principal amount in dispute, which is less than \$6,000.00, would not be expected to be the basis for any award nearing the jurisdictional minimum.

## ORDER

**IT IS, THEREFORE, ORDERED** that the joint Motion to Remand is **ALLOWED**, and this matter is summarily remanded to the North Carolina General Court of Justice, District Court Division, for Burke County.

Since the parties have jointly requested remand, the Clerk of Court is instructed to certify and remand this matter to Burke County without waiting 10 days for objections.

Signed: December 7, 2006

Dennis L. Howell

Dennis L. Howell  
United States Magistrate Judge

